IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

TWENTY EIGHTH DAY OF JULY

TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.16999 of 2003

Between:

Guduru Vijaya Kumar and another. …Petitioner.

And

The Station House Officer, L & O,

Krishnalanka, Vijayawada and others. …Respondents.

COUNSEL FOR THE PETITIONERS : Mr. Sai Gangadhar Chamarty

COUNSEL FOR RESPONDENT Nos.1 & 2 : G.P. for Home.

COUNSEL FOR RESPONDENT No.3 : Spl.G.P. for Taxes

The Court made the following order :

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.16999 of 2003

ORDER :

The Deputy Commissioner of Commercial Taxes, Division No.II, Vijayawada, addressed the Commissioner of Police, Vijayawada, alleging that the petitioners evaded Sales Tax on the purchase of timber made from outside and that the matter may be enquired into. Based on the said letter, the first respondent registered Crime No.69 of 2003 under Section 420 of Indian Penal Code, 1860. Aggrieved by the same, the petitioners filed the instant writ petition.

The offence of cheating is made out when a person dishonestly induces another person, so deceived, to deliver any property to any person or consent to deliver such property. When a tax assessee evades payment of tax, the same does not amount to cheating because the essential ingredient of making another person to deliver any property or consent that such person shall detain the property are conspicuous by absence. Therefore, even by reading the complaint made by the Commercial Tax Department, the offence of cheating is not made out. In such an event, if investigation is allowed, the same would certainly be illegal.

Therefore, the writ petition is allowed quashing the F.I.R.No.69 of 2003 registered on the file of the Station House Officer, L & O, Krishnalanka, Vijayawada. No costs.

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(V.V.S. RAO, J.)

28-07-2005.

Msr.

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.16999 of 2003

28-07-2005

(Msr)